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OFFICE OF PETITIONS

ON PETITION

In re Application of
James J. Hickman et al.
Application No. 09/880,138
Filed: June 12, 2001
Attorney Docket No. 18805-81106

This is in response to the petition under 37 CFR 1.47(a), filed February 27, 2002 (certificate of mailing February 11, 2002).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item: (2) and set forth above.

As to item (2), the declaration is not in compliance with 37 CFR 1.63(c) in that the declaration fails to set forth the residence and mailing address of nonsigning inventor David A. Stenger. Specifically, 37 CFR 1.63(c) states:

Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:

(1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor ***.

Since the mailing address of inventor Stenger is not his residence address, the declaration is not in compliance with 37 CFR 1.63(c). Accordingly, a declaration in compliance with 37 CFR 1.63(c) and 1.64 signed by all the signing inventors on behalf of the nonsigning inventor must be submitted for a grantable petition under 37 CFR 1.47(a). Note MPEP Sections 409.03(a); 602; 605.02; and 605.03. Note also 37 CFR 1.76

The middle initial of the second inventor has been changed from "G." to "A."; Office records have been corrected to reflect the correction of the second inventor's name. A corrected filing receipt accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
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Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.



Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: corrected filing receipt